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Report of the Secretary-General

1. The present report is submitted further to my report of 21 December 1990, 1/ in which I had informed the Security Council of my intention to request authorization to establish a United Nations Observer Mission in El Salvador (ONUSAL) to monitor agreements concluded between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN), commencing with the verification of the Agreement on Human Rights signed by both parties at San José on 26 July 1990 (hereinafter referred to as "the Agreement"). 2/ In this connection a preliminary mission, headed by my Alternate Personal Representative for the Central American Peace Process, and including experts in the field of human rights and technical advisers (see list in annex I), recently visited El Salvador. Its purpose was to assist me in determining the extent to which the verification tasks could be conducted before the cessation of the armed conflict, and in preparing an operational plan for implementing the verification functions outlined in the Agreement. The mission was supported by the small preparatory office opened in San Salvador in January 1991.

2. The preliminary mission evaluated, in the context of its mandate, the situation in El Salvador through in-depth discussions with representatives of a wide spectrum of political opinion. These included government Ministers, the Supreme Court, the Attorney General and the Military High Command as well as leaders of political parties, religious organizations, non-governmental organizations active in the field of human rights, trade unions and employers' associations. The mission also visited, the Government being kept informed, four zones of conflict where it met representatives of the FMLN to discuss operational modalities of the projected verification functions.

3. In the light of these discussions and its evaluation of the political situation, the preliminary mission concluded that there is a strong and widespread desire in all sectors of opinion in El Salvador that the United Nations commence, as soon as possible, the verification of the Agreement without awaiting a cease-fire. This desire arises from the hope and expectation that such verification by the United Nations would bring about a

diminution of the violence which affects the lives of the people of El Salvador. Virtually all sectors of political opinion pledged full support for the projected United Nations Verification Mission (hereinafter referred to as "the Mission") once it was established.

4. Notwithstanding these strong expressions of expectation and support, the preliminary mission recognized that the absence of the other political agreements envisaged in the framework of the Geneva agreement of 4 April 1990 and the Caracas agenda of 21 May 1990, 3/ raised a number of questions and concerns. One such concern is that, with the agreements on the armed forces and the judicial system not yet in place, the verification of the Agreement would necessitate the Mission's reaching specific working arrangements on an ad hoc basis with the military, security and judicial authorities and the FMLN. In view of the explicit assurances of support received from these authorities, the preliminary mission is of the view that such arrangements would be feasible.

5. The risks that a situation of armed conflict would pose to the tasks of the Mission and to the security of its personnel also were addressed by the preliminary mission. It concluded that, while a cease-fire obviously would provide optimal conditions, until this was secured, the verification tasks envisaged under the Agreement could be implemented to a significant extent, and that therefore this factor should not impede the establishment of the Mission before a cease-fire. The preliminary mission also concluded that, while the armed conflict could pose risks to security of personnel not usually encountered in United Nations observation or verification missions, these were not to a degree that should prevent the establishment of the Mission before a cease-fire. In reaching this conclusion the preliminary mission took into consideration not only the assurances received from the Government of El Salvador and the FMLN, but also the fact that the armed actions tend to be limited in time and place, rather than being prolonged and widespread.

6. In relation to security aspects, the preliminary mission noted further that certain extremist groups who tend to utilize violence to achieve their goals or to eliminate obstacles to them could resort to intimidation against the Mission's personnel, and precaution in this regard would be advisable.

7. In the light of the above and other relevant considerations, I have decided to accept the preliminary mission's recommendations that the human rights component of ONUSAL be established at the earliest feasible moment in advance of an agreement on a cease-fire. The Council already is informed that this measure would be in response to requests to this effect from both parties, which would need to be formalized in order to amend the reference to the cessation of the armed conflict in paragraph 19 of the Agreement, which at present provides that the Mission shall take up its duties as of the cessation of the armed conflict. In addition, measures would be required to ensure the security of the Mission, and its independence in functioning, especially the unrestricted freedom of movement and communication, as well as other rights and facilities necessary for its tasks. For this purpose, the United Nations and the Government of El Salvador would conclude an agreement on the status of

ONUSAL and its privileges and immunities. Simultaneously, the FMLN would be required to make a declaration that it will fully cooperate in assuring the safety of the Mission and in facilitating the fulfilment of its functions.

8. In practical terms, the verification tasks of the human rights component of ONUSAL under the Agreement concluded between the Government of El Salvador and the FMLN may broadly be categorized as follows:

(a) Active monitoring of the human rights situation in El Salvador;

(b) Investigation of specific cases of alleged violations of human rights;

(c) Promotion of human rights in El Salvador;

(d) Recommendations to eliminate violations of, and to promote respect for, human rights;

(e) Reports to the Secretary-General and, through him, to the Security Council and the General Assembly.

It would be of fundamental importance that all parties accept that, from the first day of its establishment, ONUSAL has the authority to exercise all the functions assigned to it under the Agreement in investigating the human rights situation in El Salvador, such as full freedom of movement and access.

9. Nevertheless, in assuming these tasks before a cease-fire, it appears highly advisable that ONUSAL adopt a progressive approach. Accordingly, in the first phase it would concentrate on the active monitoring of the human rights situation, and of the processing by the parties of cases involving the allegations of violations of human rights. During this phase ONUSAL would not itself undertake direct investigations of specific cases, except when they are of an especially significant nature, this determination being made by its Director. In this phase, ONUSAL would establish its regional offices and sub-offices. Its personnel would undertake extensive and frequent travel to demonstrate its presence in all parts of El Salvador, particularly in places, including detention centres, with a history of frequent allegations of violations of human rights. Simultaneously, it would initiate a public information campaign to inform the public about the capabilities and limitations of the Mission under the Agreement. It also would present initial recommendations to the parties if it considered this advisable and feasible. Essentially, ONUSAL's priority during this phase would be to familiarize itself with the system and conditions in El Salvador in proceeding to the subsequent full deployment of its tasks, while retaining the right to exercise any functions it deems necessary in terms of the Agreement. It would present periodic reports to the Secretary-General.

10. After the first phase, which would last 60 to 90 days, ONUSAL's human rights component would enter into the second phase, in which it would exercise all the functions assigned to it under the Agreement. It would intensify

direct investigations, promotion of respect for human rights through courses imparted to various sectors of society, and the formulation of specific and substantive recommendations to promote respect for human rights in El Salvador.

11. The structure of ONUSAL in these phases (in which it would absorb the preparatory office, which would have completed its functions) would be the following:

(a) Office of the Chief of Mission (San Salvador): A small advance component would provide overall political direction for the human rights component of ONUSAL and would deal with political matters that might arise from the performance of the verification functions. It also would prepare for the establishment of additional components of ONUSAL consequent on further political agreements that may be signed between the two parties.

(b) Office of the Director for Human Rights (San Salvador): The Director, who would be a person with an established record in the field of human rights, would have the principal responsibility for the verification of the Agreement. He would be assisted by a team of experts on human rights, a team of human rights investigators, and legal, judicial and police advisers. This office also would include a team of educators on human rights, public information activities being undertaken by the Office of the Chief of Mission.

(c) Regional offices at San Salvador, San Miguel, San Vincente and Santa Ana: Each regional office (map in annex III shows jurisdictions) would be headed by a Regional Coordinator, who would be assisted by Human Rights Officers, Legal Protection Officers, Police Monitors, Military Liaison Officers and a Political Adviser.

The San Salvador and San Miguel regions would have small sub-offices at Chalatenango and Usulután respectively, owing to the difficulty of access to certain areas in these two departments.

12. Planning for ONUSAL's personnel and logistics requirements is proceeding in the context of the preliminary mission's recommendations. Tentative projections for substantive international personnel are estimated at approximately 70 professional and above (coordinators, monitors, educators, legal and political affairs officers, etc.), 28 police personnel and 15 Military Liaison Officers. For the second phase, additional personnel are estimated at 20 professional and above and 38 police personnel, whose actual deployment would be adjusted according to the extent of activities becoming manifest in the first phase.

13. Given the nature of the tasks for which ONUSAL would be responsible, it would be essential to equip it with a reliable communications system to enhance its effectiveness and the security of its functions and personnel. Adequate transport resources also would be required to give it the mobility essential for its effective operation. The total cost of ONUSAL for an initial 12-month period, including one-time major procurements of vehicles and communications equipment, is estimated to be approximately $32 million. It is recommended that should the Council decide to set up ONUSAL, its costs should

be considered as expenses of the Organization relating to the maintenance of regional peace and security and should be treated outside the procedures related to the contingency fund.

14. In conclusion, I strongly recommend that the Security Council give early authorization for the initial establishment of ONUSAL as outlined above. Should the Council give this authorization, detailed personnel and logistical proposals and their financial implications would be submitted to the General Assembly at its resumed forty-fifth session later in April. The Secretariat can then proceed with the administrative, logistical and personnel procedures required, especially the recruitment of appropriately qualified personnel, which would be the key to the Mission's effectiveness, with the aim of ONUSAL initiating its functions on the ground by June 1991.

15. I reported to the members of the Security Council on 4 April 1991 on the progress in and the prospects for negotiations on the remaining questions agreed between the Government of El Salvador and the FMLN. While these are advancing, I would not advise linking the approval of the proposal contained in this report to the success of the negotiations as a whole. As I have stated before, I am convinced that the commencement of the verification of human rights by ONUSAL would promote a significant improvement in the human rights situation in El Salvador, and also would act as a positive impetus to the negotiations. I am of the strong view that the proposed establishment of the first component of ONUSAL should proceed by itself, without awaiting the outcome of the negotiation effort in progress. Once there is agreement on the cease-fire and the United Nations is called upon to play a broader role as envisaged, the corresponding resources to be included in ONUSAL's structure would be established with the aim of its being able to operate effectively as an integrated whole.

Notes

1/ S/22031.

2/ S/21541.

3/ S/21931, annexes I and II.

Annex I

Secretary-General's statement on El Salvador of 4 April 1991

One year ago today, the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) agreed to initiate a process of negotiation, under my auspices, in order to end the armed conflict in El Salvador through political means as speedily as possible, promote the democratization of the country, guarantee unrestricted respected for human rights and reunify Salvadorian society.

Lives continue to be lost in combat in El Salvador, and peace is not yet at hand. But the negotiation is now entering an intensified new phase which, if successful, could lead to an early cease-fire under the supervision of the United Nations.

The road travelled in the last 12 months has been rough. This was to be expected, given the depth and complexity of the issues at stake, as illustrated in the agenda set last May and its provision that political agreements on a broad range of subjects be reached before a cease-fire could be contemplated.

Much time has been spent on the pervasive issue of the armed forces. It would not be appropriate for me to reveal what transpires in a negotiation which must of necessity remain confidential. But it is fair to say that, though no agreement has yet been struck, much progress has been made.

Last July, the parties signed a far-reaching agreement on human rights which provided for the establishment of an unprecedented, long-term, nationwide United Nations verification mission. A small preparatory office was set up in San Salvador in January. After much preparatory work and deliberation, and following a 10-day preliminary mission which I dispatched to El Salvador I am about to submit a formal proposal to the Security Council for the establishment of the verification mission as the initial component of an operation that I intend to call ONUSAL, which will undertake the responsibilities that will fall upon the United Nations as agreements emerge from the negotiation, and which are expected to include, in due course, a separation of forces and a cease-fire.

The phase of the process which is about to begin involves the simultaneous negotiation of a restricted set of issues, including the armed forces, constitutional reform and cease-fire arrangements which will for the first time permit the treatment of related issues in context and in perspective. Time is limited for these negotiations: constitutional reforms must be approved in two consecutive legislatures, and if they are not agreed upon and submitted to the current legislature before the end of its term on 30 April 1991, the possibility of adopting reforms which may well be crucial to the success of the negotiation may not become available again before 1994.

The situation in El Salvador has evolved considerably since the negotiations began. As provided for in the Geneva agreement, a broad debate involving all political parties and many social organizations and other institutions in El Salvador on the spectrum of issues in the negotiation is taking place. The armed forces as an institution are fully engaged in the process of negotiation itself. Issues are being aired openly which heretofore were not touched upon in public. Salvadorian society stands as if poised to undergo a profound transformation which will permit peace, once it comes about, to take hold irrevocably and irreversibly. At the same time, while the hope which is now offered is great, we must be wary of rising expectations. While the prospects for progress and indeed agreement have clearly improved, and recent contacts by my representative and myself with the parties reveal a desire to push ahead the sincerity of which I dare not doubt, the difficulties facing the negotiators and the short time available are daunting.

Throughout this process, I and my representative have worked closely with a certain number of Governments in a position to assist my efforts. I wish to record my appreciation to them. I would also add that we remain in touch with other Governments from outside Central America which are, I believe, called upon to play an essential role to ensure that the effort under way is successful. I fully intend to continue engaging these Governments in the process.

I will in due course be reporting to the Security Council about progress in the negotiations. Meanwhile, I intend to bring to the Council my proposal for the establishment of the human rights component of ONUSAL, which should go ahead as if it were a self-contained unit in view of its importance for the improvement of the situation in El Salvador and for the contribution that it can bring to helping the negotiation along.

Annex II

Members of the preliminary mission to El Salvador from 13 to 23 March 1991

CHIEF OF MISSION: Mr. Iqbal RIZA
Alternate Personal Representative of the Secretary-General

EXPERTS: Dr. Pedro NIKKEN (Venezuela)
Vice-President of the Inter-American Institute of Human Rights and former President of the Inter-American Court of Human Rights

Dr. Philippe TEXIER (France)
Judge in the Court of Evry in France and Special Representative for Haiti of the Human Rights Commission

H.E. Mr. Carl Johan GROTH (Sweden)
Ambassador of Sweden in Denmark and formerly Representative of Sweden to the Human Rights Commission

Mr. Diego GARCIA-SAYAN (Peru)
Professor of Human Rights in the Catholic University of Peru and Executive Director of the Andean Commission of Jurists

ADVISERS: Lt. Col. Francisco Javier ZORZO FERRER
(Spanish Army)

Cmdt. Enrique VEGA FERNANDEZ (Spanish Army)

Supdt. Peter FITZGERALD (Irish Police)

SECRETARIAT: Mr. NGUYEN H. Dong
Political Affairs Officer

Mr. Mario ZAMORANO
Director of UNIC in Mexico

Mr. Miguel DE LA LAMA
Centre for Human Rights in Geneva

Mrs. Silvia GAYMER
Secretary

PREPARATORY
OFFICE OF ONUSAL
IN SAN SALVADOR: Dr. Ricardo VIGIL, Chief

Political Affairs Officers:

- Mr. Francesco MANCA
- Mr. Gino COSTA
- Miss Denise COOK

Annex III

Map of El Salvador

MAP NO. 3062.1 UNITED NATIONS
APRIL 1991